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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/981,089	10/16/2001	Paul E. Stibolt	CU-2646 RJS/BWH	5376
22242	7590	09/08/2005	EXAMINER A, PHI DIEU TRAN	
FITCH EVEN TABIN AND FLANNERY 120 SOUTH LA SALLE STREET SUITE 1600 CHICAGO, IL 60603-3406			ART UNIT 3637	PAPER NUMBER

DATE MAILED: 09/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

*HC*

## Office Action Summary

Application No.

09/981,089

Applicant(s)

STIBOLT, PAUL E.

Examiner

Phi D. A

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 11-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-45 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 11-20, 22, 27, 36-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stibolt et al (5531050) in view of Anderson et al (6070375).

Stibolt et al (figures 5, 8) shows a wrap for corners of building, the wrap having two extensions (102, 104), a wall extension and a jamb/sill extension (102, 104 respectively), the wall extension having a front and rear surface (106, 108), the front and rear surface having inner and outer edges, reinforcing structures (206) extending between the front and rear surfaces of the wall extension, the inner edges of the two extensions being joined at a flexible joint (100) extending along a longitudinal axis, the front and rear surfaces having outer portions (202, 200) which are free of reinforcing structure, each of the jamb/sill extension lying perpendicular to the wall extensions, the jamb/sill extension having a front and rear surface (1064, 104), the front and rear surface having inner and outer edges with reinforcing structure (206) extending between the front and rear surface, the joint being flexible and the inner edges of the rear surface are spaced apart from each other outwardly of the flexible joint (100), the outer portion of the rear surface forming a longitudinal hinge with the adjacent reinforcing structure whereby the outer portion of the rear surface of the extension may pivot rearwardly to receive drywall panels of varying thickness (inherently so as the outer portion is flexible), the front and rear surfaces of the extensions converge toward each other in a direction outwardly of the joint, the reinforcing

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structure further comprises a plurality of struts (206) extending between the front and rear surfaces, insulation (804) is used to fill the gaps between the struts and the front and rear surfaces of each extension, the outer portion of the rear surface of each extension providing a flange (202) for attaching the window wrap to framing, the front surface of each extension being covered by a primer or laminate (col 8 line 5-6), a block (1102) positioned adjacent to the rear surface of an extension when used with a drywall panel which is thicker than the normal opening between the outer portions of the front and rear surfaces of the extension to allow the drywall panel and the window wrap to remain parallel to the framing surface on which the drywall panel and the window wrap are affixed (the normal opening between the surfaces being smaller than the actual opening as the front surface tapers at the end toward the rear surface).

Stibolt et al does not show the wrap having multiple components, the components being connected to each other at their longitudinal ends so that the wall extensions of each components all extend outwardly from their said joint and lie in the same plane, the jamb/sill extensions of each said portion all extend rearwardly from their said joint.

Anderson et al (figure 1) shows a window wrap (10) having multiple components, the components being connected to each other at their longitudinal ends (at the miter joint) so that the wall extensions of each components all extend outwardly from their said joint and lie in the same plane, the jamb/sill extensions of each said portion all extend rearwardly (into the wall) from their said joint to enable mounting a window pane into a wall structure.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Stibolt et al to show the wrap having multiple components, the components being connected to each other at their longitudinal ends so that the wall extensions of each

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components all extend outwardly from their said joint and lie in the same plane, the jamb/sill extensions of each said portion all extend rearwardly from their said joint because it would enable the wrap to wrap around a window pane and mounting the pane to a wall as taught by Anderson et al.

Per claims 12, 27 Stibolt et al as modified by Anderson et al et al shows the window wrap having four jamb and sill components each connected to each other at their longitudinal ends at a right angle to each other to form a rectangular shape, each of the components being connected to each other by a mitered joint.

3. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stibolt et al (...050) in view of Anderson et al (...375) as applied to claim 13 above, and further in view of Ozbun et al (5454141).

Stibolt et al as modified shows all the claimed limitations except for the front surface of each extension being covered with an extensible paper laminate affixed by an adhesive which remains pliable and does not negate the extensible properties of the paper laminate under normal working conditions.

Ozbun et al shows wrapping a paper laminate which remains pliable and extensible (col 4 lines 45-55) around a structure to give the structure an attractive appearance.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Stibolt et al's modified structure to show the front surface of each extension being covered with an extensible paper laminate affixed by an adhesive which remains pliable and does not negate the extensible properties of the paper laminate under normal working

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conditions because it would give the window wrap an attractive appearance as taught by Ozburn et al.

4. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stibolt et al (...050) in view of Anderson et al (...375) as applied to claim 13 above, and further in view of Loehr et al (19105540

Stibolt et al as modified shows all the claimed limitations except for the inside surface of the outer portions of the front and rear surfaces of an extension is affixed by an adhesive to the drywall panel which is being used with the window wrap extension.

Loehr et al shows panels (16) being affixed by an adhesive (col 3 line 33) to the inside surface of the outer portions of the front and rear surfaces.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Stibolt et al's modified structure to show the inside surface of the outer portions of the front and rear surfaces of an extension is affixed by an adhesive to the drywall panel which is being used with the window wrap extension as taught by Loehr et al because it would enhance the securing of the panels to the window wrap.

5. Claims 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stibolt et al (...050) in view of Anderson et al (...375).

Stibolt et al as modified shows all the claimed limitations except for the one or both of the outer portions of the front and rear surfaces of an extension is removed or excluded, the jamb/sill extensions being cut or otherwise shorten to accommodate for a jamb/sill which is shallower than the length of the jamb/sill extension.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Stibolt et al's modified structure to show one or both of the outer portions of the front and rear surfaces of an extension is removed or excluded, the jamb/sill extensions being cut or otherwise shorten to accommodate for a jamb/sill which is shallower than the length of the jamb/sill extension because it would allow for the installation of the window wrap to a window jamb/sill which does not require the outer portions of the rear and front surfaces or a window jamb/sill which requires only a short length of the jamb/sill extension.

6. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stibolt et al (...050) in view of Anderson (...375).

Stibolt et al as modified shows all the claimed limitations except for a length of drywall being inserted in the opening between the outer portions of the front and rear surfaces of the jamb/sill extension to accommodate for a jamb/sill which is deeper than the length of the jamb/sill extension.

Stibolt et al further discloses shims (col 7 lines 16-17) to accommodate for dimensional variations at installation of the wrap.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Stibolt et al's modified structure to show a length of drywall being inserted in the opening between the outer portions of the front and rear surfaces of the jamb/sill extension to accommodate for a jamb/sill which is deeper than the length of the jamb/sill extension because it would enable the secured and tight fastening of the wrap to the jamb/sill which has deeper length than that of the extension as the drywall length would provide for structural support for the wrap.

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7. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stibolt et al (...050) in view of Anderson et al (...375).

Stibolt et al as modified shows all the claimed except for the mitered joints being fused or welded together.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Stibolt et al's modified structure to show the mitered joints being fused or welded together because welding, fusing, bonding, bolting etc...are all well known mean for connecting miter joints together.

8. Claims 29, 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stibolt et al (...050) in view of Anderson et al (...375).

Stibolt et al as modified shows all the claimed structures. The claimed method step would have been the obvious method steps of finishing Stibolt et al's modified window frame.

9. Claims 30-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stibolt et al (...050) in view of Anderson et al (...375) as applied to claim 13 above, and further in view of Loehr et al (1910554).

Stibolt et al as modified shows all the claimed limitations. The claimed method steps would have been the obvious method steps of finishing Stibolt et al's modified window frame.

10. Claims 41-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stibolt et al (...050) in view of Anderson et al (...375).

Stibolt et al as modified shows all the claimed limitations except for the one or both of the outer portions of the front and rear surfaces of an extension do not extend past the reinforcing structure.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Stibolt et al's modified structure to show one or both of the outer portions of the front and rear surfaces of an extension do not extend past the reinforcing structure because it would allow for the installation of the window wrap to a window jamb/sill which does not require the outer portions of the rear and front surfaces extending beyond the reinforcing structure.

### ***Response to Arguments***

1. Applicant's arguments filed 6/14/05 have been fully considered but they are not persuasive.
2. Applicant states that Anderson Anderson is to a different use (to border the opening in a wall) and is thus not useable for framing drywall, examiner respectfully disagrees. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In this case, the reference Anderson teaches framing of an opening and is in the same field as applicant's invention which is for framing a window frame in a wall opening. The argument is thus moot.
3. with respect to applicant's argument that there is no disclosure or motivation to modify Stibolt et al's structure with that of Anderson et al, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in

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the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, motivation to combine is disclosed in the reference itself. The reference Anderson teaches the use of wrap to wrap around a window pane and mounting the pane to a wall. Thus, the combination of the teachings of Stibolt et al and Anderson et al would enable the teaching of Stibolt et al to wrap around a window pane and mount the pane to a wall. The argument is thus moot.

With respect to the use of framing drywall, Stibolt et al as modified by Anderson shows the ability to frame drywall as claimed.

With respect to the flanges of Anderson, examiner respectfully points out that the flanges are disclosed by Stibolt et al. The combination of the references shows the flanges as claimed.

As the combination to Stibolt et al and Anderson is proper, the arguments to claims 11-45 is moot.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

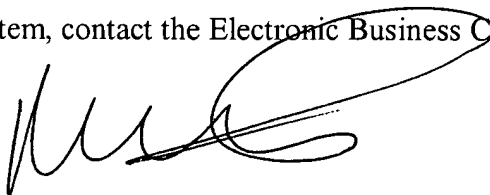
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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 571-272-6864. The examiner can normally be reached on Monday-Tuesday, Thursday and Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Phi Dieu Tran A

9/2/05